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Paper No. 46

GRAYDON HEAD AND RITCHEY LLP  
1900 FIFTH THIRD CENTER  
511 WALNUT STREET  
CINCINNATI OH 45202

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MAIL

In re Application of:  
H. Lee MARTIN, et al.  
Application No. 08/887,319  
Filed: July 2, 1997  
For: OMNIVIEW MOTIONLESS CAMERA  
ORIENTATION SYSTEM

DIRECTOR OFFICE  
TECHNOLOGY CENTER 2600

ON PETITION

This is a decision on the September 15, 2003 petition under 37 CFR 1.181 to withdraw the holding of abandonment. The petition is being treated under 37 CFR 1.8(b).

*The petition is granted.*

This application became abandoned for failure to timely file a response to the November 26, 2002 Office action, which set a shortened statutory period of two (2) months to reply. That period lapsed without reply, rendering this application abandoned as of January 27, 2003. A Notice of Abandonment was mailed on July 16, 2003.

Petitioner alleges to have timely filed an amendment in response to the Office action. To support this position, Petitioner has included with this petition a copy of the reply, which consisted of an amendment. The amendment included with the petition includes a proper certificate of mailing under 37 CFR 1.8(a).

37 C.F.R. § 1.8(b) states that in the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the Patent and Trademark Office, and the application is held to be abandoned or the proceeding dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:

- (1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence,
- (2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate, and
- (3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Commissioner to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

The petition meets the requirements set forth above. Accordingly, the Notice of Abandonment is vacated and the holding of abandonment withdrawn.

The application will be forwarded to the Technology Center's technical support staff for entry of the amendment. From there, the file will be forwarded to the examiner for consideration in due course.

Allen R. MacDonald, Director  
Technology Center 2600  
Communications